

Introduced by Senator MargettFebruary 17, 2005

An act to amend Section 17207 of the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as introduced, Margett. Escrow agents.

Existing law provides for the licensing and regulation of escrow agents by the Commissioner of Corporations. Existing law requires the commissioner, until January 1, 2006, to charge and collect specified fees and assessments. Existing law, commencing January 1, 2006, revises the fees and assessments the commissioner is required to charge and collect.

This bill would change these dates to January 1, 2010, and would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17207 of the Financial Code, as
- 2 amended by Section 1 of Chapter 499 of the Statutes of 2001, is
- 3 amended to read:
- 4 17207. The commissioner shall charge and collect the
- 5 following fees and assessments:
- 6 (a) For filing an application for an escrow agent's license, six
- 7 hundred twenty-five dollars (\$625) for the first office or location
- 8 and four hundred twenty-five dollars (\$425) for each additional
- 9 office or location.

1 (b) For filing an application for a duplicate of an escrow
2 agent's license lost, stolen, or destroyed, or for replacement,
3 upon a satisfactory showing of the loss, theft, destruction, or
4 surrender of certificate for replacement, two dollars (\$2).

5 (c) For investigation services in connection with each
6 application, one hundred dollars (\$100), and for investigation
7 services in connection with each additional office application,
8 one hundred dollars (\$100).

9 (d) For holding a hearing in connection with the application,
10 as set forth under Section 17209.2, the actual costs experienced
11 in each particular instance.

12 (e) (1) Each escrow agent shall pay to the commissioner for
13 the support of this division for the ensuing year an annual license
14 fee not to exceed two thousand eight hundred dollars (\$2,800) for
15 each office or location.

16 (2) On or before May 30 in each year, the commissioner shall
17 notify each escrow agent by mail of the amount of the annual
18 license fee levied against it, and that the payment of the invoice
19 is payable by the escrow agent within 30 days after receipt of
20 notification by the commissioner.

21 (3) If payment is not made within 30 days, the commissioner
22 may assess and collect a penalty, in addition to the annual license
23 fee, of 10 percent of the fee for each month or part of a month
24 that the payment is delayed or withheld.

25 (4) If an escrow agent fails to pay the amount due on or before
26 the June 30 following the day upon which payment is due, the
27 commissioner may by order summarily suspend or revoke the
28 certificate issued to the company.

29 (5) If, after an order is made pursuant to paragraph (4), a
30 request for a hearing is filed in writing and a hearing is not held
31 within 60 days thereafter, the order is deemed rescinded as of its
32 effective date. During any period when its certificate is revoked
33 or suspended, a company shall not conduct business pursuant to
34 this division, except as may be permitted by order of the
35 commissioner. However, the revocation, suspension, or surrender
36 of a certificate shall not affect the powers of the commissioner as
37 provided in this division.

38 (f) Fifty dollars (\$50) for investigation services in connection
39 with each application for qualification of any person under

1 Section 17200.8, other than investigation services under
2 subdivision (c) of this section.

3 (g) A fee not to exceed twenty-five dollars (\$25) for the filing
4 of a notice or report required by rules adopted pursuant to
5 subdivision (a) or Section 17203.1.

6 (h) (1) If costs and expenses associated with the enforcement
7 of this division, including overhead, are or will be incurred by the
8 commissioner during the year for which the annual license fee is
9 levied, and that will or could result in the commissioner's
10 incurring of costs and expenses, including overhead, in excess of
11 the costs and expenses, including overhead, budgeted for
12 expenditure for the year in which the annual license fee is levied,
13 then the commissioner may levy a special assessment on each
14 escrow agent for each office or location in an amount estimated
15 to pay for the actual costs and expenses associated with the
16 enforcement of this division, including overhead, in an amount
17 not to exceed five hundred dollars (\$500) for each office or
18 location. The commissioner shall notify each escrow agent by
19 mail of the amount of the special assessment levied against it,
20 and that payment of the special assessment is payable by the
21 escrow agent within 30 days of receipt of notification by the
22 commissioner. The funds received from the special assessment
23 shall be deposited into the State Corporations Fund and shall be
24 used only for the purposes for which the special assessment is
25 made.

26 (2) If payment is not made within 30 days, the commissioner
27 may assess and collect a penalty, in addition to the special
28 assessment, of 10 percent of the special assessment for each
29 month or part of a month that the payment is delayed or withheld.
30 If an escrow agent fails to pay the special assessment on or
31 before 30 days following the day upon which payment is due, the
32 commissioner may by order summarily suspend or revoke the
33 certificate issued to the company. If an order is made under this
34 subdivision, the provisions of paragraph (5) of subdivision (e) of
35 this section shall apply.

36 (3) If the amount collected pursuant to this subdivision
37 exceeds the actual costs and expenses, including overhead,
38 incurred in the administration and enforcement of this division
39 and any deficit incurred, the excess shall be credited to each
40 escrow agent on a pro rata basis.

(i) This section shall remain in effect only until January 1, 2006 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006 2010, deletes or extends that date.

SEC. 2. Section 17207 of the Financial Code, as amended by Section 2 of Chapter 499 of the Statutes of 2001, is amended to read:

17207. The commissioner shall charge and collect the following fees and assessments:

(a) For filing an application for an escrow agent's license, six hundred twenty-five dollars (\$625) for the first office or location and four hundred twenty-five dollars (\$425) for each additional office or location.

(b) For filing an application for a duplicate of an escrow agent's license lost, stolen, or destroyed, or for replacement, upon a satisfactory showing of the loss, theft, destruction, or surrender of certificate for replacement, two dollars (\$2).

(c) For investigation services in connection with each application, one hundred dollars (\$100), and for investigation services in connection with each additional office application, one hundred dollars (\$100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

(e) (1) Each escrow agent shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year, and of any deficit actually incurred or anticipated in the administration of this division in the year in which the assessment is made. Commencing with the assessment for fiscal year ~~2006-07~~ 2010-11, the assessment shall not increase by more than 25 percent over the amount assessed in the prior year. The pro rata share shall be the proportion which a licensee's gross income from escrow operations bears to the aggregate gross income from escrow operations of all licensees as compiled by the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 17405.1, unless they cannot be collected from the company examined. If the pro rata assessment collected pursuant to this paragraph exceeds the actual costs and expenses incurred in the

1 administration of this division and any deficit incurred, the
2 excess shall be credited to each escrow agent on a pro rata basis.

3 (2) On or before May 30 in each year, the commissioner shall
4 notify each escrow agent by mail of the amount assessed and
5 levied against it, and that the payment of any invoice for
6 assessments of the commissioner is payable by the escrow agent
7 in three installments with the first installment payable within 20
8 days after receipt of notification by the commissioner and the
9 second and third installments payable within 20 days of August
10 31 and November 30, respectively, in each year. The first
11 installment payment shall be 50 percent of the amount assessed,
12 and the second and third installment payments shall each be 25
13 percent of the amount assessed.

14 (A) If the first installment payment is not made within 20
15 days, the commissioner may assess and collect a penalty, in
16 addition to the assessment, of 10 percent of the assessment for
17 each month or part of a month that the payment is delayed or
18 withheld.

19 (B) If the second installment payment is not made within 20
20 days of August 31 in each year, the commissioner may assess
21 and collect a penalty, in addition to the assessment, of 10 percent
22 of the assessment for each month or part of a month that the
23 payment is delayed or withheld.

24 (C) If the third installment payment is not made within 20
25 days of November 30 in each year, the commissioner may assess
26 and collect a penalty, in addition to the assessment, of 10 percent
27 of the assessment for each month or part of a month that the
28 payment is delayed or withheld.

29 (3) In the levying and collection of the assessment, an escrow
30 agent shall not be assessed for, nor be permitted to pay less than,
31 three hundred fifty dollars (\$350) per year, per location.

32 (4) (A) If an escrow agent fails to pay the first assessment on
33 or before the June 30 following the day upon which payment is
34 due, the commissioner may by order summarily suspend or
35 revoke the certificate issued to the company.

36 (B) If an escrow agent fails to pay the second installment
37 payment on or before September 30 in each year, the
38 commissioner may by order summarily suspend or revoke the
39 certificate issued to the company.

1 (C) If an escrow agent fails to pay the third installment
2 payment on or before December 31 in each year, the
3 commissioner may by order summarily suspend or revoke the
4 certificate issued to the company.

5 (D) If, after this order is made, a request for a hearing is filed
6 in writing and a hearing is not held within 60 days thereafter, the
7 order is deemed rescinded as of its effective date. During any
8 period when its certificate is revoked or suspended, a company
9 shall not conduct business pursuant to this division, except as
10 may be permitted by order of the commissioner. However, the
11 revocation, suspension, or surrender of a certificate shall not
12 affect the powers of the commissioner as provided in this
13 division.

14 (f) Fifty dollars (\$50) for investigation services in connection
15 with each application for qualification of any person under
16 Section 17200.8, other than investigation services under
17 subdivision (c) of this section.

18 (g) A fee not to exceed twenty-five dollars (\$25) for the filing
19 of a notice or report required by rules adopted pursuant to
20 subdivision (a) or Section 17203.1.

21 (h) This section shall become operative January 1, ~~2006~~ 2010.